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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/805,237

03/22/2004

Larry Bowen

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22907

7590

02/06/2007

BANNER & WITCOFF

1001 G STREET N W

SUITE 1100

WASHINGTON, DC 20001

EXAMINER

LOPEZ, CARLOS N

ART UNIT

PAPER NUMBER

1731

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No. 10/805,237	Applicant(s) BOWEN ET AL.	
	Examiner Carlos Lopez	Art Unit 1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 110-130 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 110-121 and 124-129 is/are rejected.
- 7) ☐ Claim(s) 122 and 123 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1 IDS</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 110-113, 119, 120, and 124-129 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ito (US. Pat. No. 4,915,117).

Ito discloses a sheet for holding tobacco, said sheet formed of ceramic fibers or powder which may include zirconia, alumina or titanium oxide (corresponding to the claimed "non-combustible material/oxygen storage component/group IVB metal oxide/catalyst"); glass fiber (corresponding to the claimed "sheet reinforcement"), singly or in combination with aluminoborosilicate (corresponding to the claimed "oxygen storage component/catalyst/aluminum silicates"); a binder, which can be either organic or inorganic and can consist of starch, silica gel, rubber-type adhesives or natural resins (which also corresponds to the claimed "sorbent/porous metal oxide/plastic/cellulose materials"); and cellulose pulp fiber (corresponding to the claimed "organics"). The sheet comprised of such fibers/additives such that upon smoking of the cigarette having the sheet as a wrapper, no harmful organic substances are produced (corresponding to the claimed "activating said sheet material...at a temperature of a high temperature cigarette burn zone") (see entire patent). While there may be no explicit statement that the cellulosic pulp fiber or organic binder is combustible at the high-temperature

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cigarette burn zone, it would follow that since the cellulosic pulp/organic binder is derived from a cellulose/wood source (which are themselves combustible materials) said materials would, obviously, also burn or combust when subjected to high-temperatures of the burning cigarette.

Claims 114-118 and 121 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ito (US. Pat. No. 4,915,117) in view of Snaidr et al Wo 98/16125, for which US 6,371,127 will be referenced. Ito's invention is drawn to making a cigarette comprising a thin sheet for holding tobacco. The thin sheet is formed of a ceramic sheet by thermal decomposition of a woven or nonwoven fabric of ceramic fiber at a high temperature which produces no harmful organic substance with heat occurring with smoking of the cigarette. Ito's invention seeks to provide a cigarette that produces only a small amount of tar when smoked, which is effective to minimize the unpleasant feeling and irritating smell given to people around the smoker. Ito, is thus concerned in sidestream smoke and its irritation that may cause non-smokers. Ito is silent disclosing the use of cerium catalyst for the reduction irritating smell. However, Snaidr teaches of using a cerium oxide hydrate, deemed as an admixture with a oxygen storage, in order to reduce unpleasant smell emanating from the burning cigarette (See Col. 19, lines 11ff and Col. 20, lines 40ff. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have used hydrated cerium oxide as taught by Snaidr in the cigarette of Ito in order to reduce unpleasant smells of a burning cigarette as sought by Ito.

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Allowable Subject Matter

3. Claims 121-123 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lopez whose telephone number is 571.272.1193. The examiner can normally be reached on Mon.-Fri. 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571.272.1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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